

1 IGNACIA S. MORENO
Assistant Attorney General
2 Environment and Natural Resources Division

3 ROCHELLE L. RUSSELL (Cal. Bar No. 244992)
Trial Attorney
4 U.S. Department of Justice
Environment and Natural Resources Division
5 Environmental Defense Section
301 Howard Street, Suite 1050
6 San Francisco, CA 94105
Tel: (415) 744-6566
7 Fax: (415) 744-6476
Email: rochelle.russell@usdoj.gov
8 *Counsel for Defendants*

9
10 UNITED STATES DISTRICT COURT
11 FOR THE NORTHERN DISTRICT OF CALIFORNIA
12 SAN FRANCISCO DIVISION
13

14 _____
15 ASSOCIATION OF IRRITATED
RESIDENTS, et al.,

16 Plaintiffs,

17 v.

18 UNITED STATES ENVIRONMENTAL
19 PROTECTION AGENCY, et al.,

20 Defendants.
21 _____
22

No. 08-cv-00227 SC

23)
24)
25) **STIPULATION TO DISMISS**
26) **WITH PREJUDICE**

27) **AND**

28) **~~[PROPOSED]~~ ORDER THEREON**

1 Pursuant to Paragraph 5 of the Consent Decree entered by the Court on September 12,
2 2008 in the above-captioned matter (Dkt. 21) and Federal Rule of Civil Procedure 41(a)(1), the
3 parties to this action, Plaintiffs Association of Irrigated Residents and the Natural Resources
4 Defense Council, Inc. and Defendants the United States Environmental Protection Agency et al.
5 ("EPA" or "Agency"), hereby stipulate and agree, through their undersigned counsel, that this
6 action shall be dismissed with prejudice.

7 Paragraph 5 of the Consent Decree provides that the parties will jointly request the Court
8 to dismiss this action with prejudice when the actions in Paragraphs 1 and 2 of the Consent
9 Decree, taken pursuant to section 110(k) of the Clean Air Act, 42 U.S.C. § 7410(k), have been
10 completed.

11 EPA has fulfilled the obligations set forth in Paragraph 1 of the Consent Decree, which
12 required EPA to sign for publication in the Federal Register no later than October 15, 2008
13 notices of the Agency's proposed actions on the 2003 State SIP, the 2004 San Joaquin Valley
14 SIP, and the 2003 South Coast SIP, and to deliver the notices to the Office of the Federal
15 Register for publication. *See* Approval and Promulgation of Implementation Plans: 1-Hour
16 Ozone Extreme Area Plan for San Joaquin Valley, CA, 73 Fed. Reg. 61,381 (Oct. 16, 2008);
17 Approval and Promulgation of Implementation Plans; State of California; 2003 State Strategy
18 and 2003 South Coast Plan for One-Hour Ozone and Nitrogen Dioxide, 73 Fed. Reg. 63,408
19 (Oct. 24, 2008).

20 EPA has also fulfilled the obligations set forth in Paragraph 2 of the Consent Decree, as
21 amended on January 15, 2009 (Dkt. 28) and August 10, 2009 (Dkt. 31), which required EPA to:
22 (1) sign for publication in the Federal Register by January 15, 2009 a notice of the Agency's final
23 action on the 2003 South Coast SIP and related portions of the 2003 State SIP; (2) sign for
24 publication in the Federal Register by December 11, 2009 a notice of the Agency's final action
25 on the 2004 San Joaquin Valley SIP and related portions of the 2003 State SIP; and (3) deliver
26 the notices to the Office of the Federal Register for publication. *See* Approval and Promulgation
27 of Implementation Plans: 1-Hour Ozone Extreme Area Plan for San Joaquin Valley, CA, 75 Fed.
28 Reg. 10,420 (Mar. 8, 2010); Approval and Promulgation of Implementation Plans; State of

California; 2003 State Strategy and 2003 South Coast Plan for One-Hour Ozone and Nitrogen Dioxide, 74 Fed. Reg. 10,176 (Mar. 10, 2009).

Accordingly, the terms of Paragraph 5 of the Consent Decree have been satisfied, and dismissal of this action with prejudice is appropriate.

Respectfully submitted,

FOR THE DEFENDANTS:

IGNACIA S. MORENO
Assistant Attorney General
Environment & Natural Resources Division

Dated: April 1, 2010

/s/ Rochelle L. Russell
ROCHELLE L. RUSSELL
United States Department of Justice
Environmental Defense Section
301 Howard Street, Suite 1050
San Francisco, CA 94105
(415) 744-6566
rochelle.russell@usdoj.gov

FOR THE PLAINTIFFS:

Dated: April 1, 2010

/s/ Brent Newell
BRENT NEWELL
Center on Race, Poverty & the Environment
47 Kearney Street, Suite 804
San Francisco, CA 94108
(415) 346-4179
bnewell@crpe-ej.org
Attorney for Association of Irrigated Residents

Dated: April 1, 2010

/s/ Adriano Martinez
ADRIANO MARTINEZ
Natural Resources Defense Council, Inc.
1314 Second Street
Santa Monica, CA 90401
(310) 434-2300
amartinez@nrdc.org
Attorney for Natural Resources Defense Council

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: April 1, 2010

Hon. Samuel Conti
Senior Judge
United States District Court

